



April 6, 1999

ENGROSSED SENATE BILL No. 153

DIGEST OF SB 153 (Updated March 30, 1999 8:42 pm - DI 77)

Citations Affected: IC 25-26; IC 27-8.

Synopsis: Insurance coverage of mail order and Internet pharmacies. Amends definition of "practice of pharmacy" to include certain acts, including counseling. Allows insurers to designate a mail order or Internet pharmacy to provide prescription drugs to an insured. Prohibits an insurer from requiring as a condition of coverage that an insured purchase prescription drugs from a designated mail order or Internet pharmacy. Prohibits an insurer from applying a financial penalty if an insured does not purchase prescription drugs from an in-network designated mail order or Internet pharmacy. Requires a mail order or Internet pharmacy to comply with the laws of the state of domicile and with the Indiana generic drug law.

Effective: July 1, 1999.

Gard, Sipes, Lubbers
(HOUSE SPONSORS — HASLER, WHETSTONE)

January 6, 1999, read first time and referred to Committee on Health and Provider Services.

February 25, 1999, amended, reported favorably — Do Pass.

March 1, 1999, read second time, ordered engrossed.

March 2, 1999, engrossed.

March 3, 1999, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 8, 1999, read first time and referred to Committee on Public Health.

April 5, 1999, amended, reported — Do Pass.

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April 6, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED SENATE BILL No. 153

A BILL FOR AN ACT to amend the Indiana Code concerning pharmacies.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-26-13-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this
3 chapter:
4 "Board" means the Indiana board of pharmacy.
5 "Controlled drugs" are those drugs on schedules I through V of the
6 Federal Controlled Substances Act or on schedules I through V of
7 IC 35-48-2.
8 "Counseling" means effective communication between a
9 pharmacist and a patient concerning the contents, drug to drug
10 interactions, route, dosage, form, directions for use, precautions,
11 and effective use of a drug or device to improve the therapeutic
12 outcome of the patient through the effective use of the drug or
13 device.
14 "Dispensing" means issuing one (1) or more doses of a drug in a
15 suitable container with appropriate labeling for subsequent
16 administration to or use by a patient.

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- 1 "Drug" means:
- 2 (1) articles or substances recognized in the official United States
- 3 Pharmacopoeia, official National Formulary, official
- 4 Homeopathic Pharmacopoeia of the United States, or any
- 5 supplement to any of them;
- 6 (2) articles or substances intended for use in the diagnosis, cure,
- 7 mitigation, treatment, or prevention of disease in man or animals;
- 8 (3) articles other than food intended to affect the structure or any
- 9 function of the body of man or animals; or
- 10 (4) articles intended for use as a component of any article
- 11 specified in subdivisions (1) through (3) and devices.
- 12 "Drug order" means a written order in a hospital or other health care
- 13 institution for an ultimate user for any drug or device, issued and
- 14 signed by a practitioner, or an order transmitted by other means of
- 15 communication from a practitioner, which is immediately reduced to
- 16 writing by the pharmacist, registered nurse, or other licensed health
- 17 care practitioner authorized by the hospital or institution. The order
- 18 shall contain the name and bed number of the patient; the name and
- 19 strength or size of the drug or device; unless specified by individual
- 20 institution policy or guideline, the amount to be dispensed either in
- 21 quantity or days; adequate directions for the proper use of the drug or
- 22 device when it is administered to the patient; and the name of the
- 23 prescriber.
- 24 **"Drug regimen review" means the retrospective, concurrent,**
- 25 **and prospective review by a pharmacist of a patient's drug related**
- 26 **history that includes the following areas:**
- 27 (1) Evaluation of prescriptions or drug orders and patient
- 28 records for drug allergies, rational therapy contradictions,
- 29 appropriate dose and route of administration, appropriate
- 30 directions for use, or duplicative therapies.
- 31 (2) Evaluation of prescriptions or drug orders and patient
- 32 records for drug-drug, drug-food, drug-disease, and
- 33 drug-clinical laboratory interactions.
- 34 (3) Evaluation of prescriptions or drug orders and patient
- 35 records for adverse drug reactions.
- 36 (4) Evaluation of prescriptions or drug orders and patient
- 37 records for proper utilization and optimal therapeutic
- 38 outcomes.
- 39 "Drug utilization review" means a program designed to
- 40 measure and assess on a retrospective and prospective basis the
- 41 proper use of drugs.
- 42 "Device" means an instrument, apparatus, implement, machine,



contrivance, implant, invitro reagent, or other similar or related article including any component part or accessory, which is:

(1) recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to them;

(2) intended for use in the diagnosis of disease or other conditions or the cure, mitigation, treatment, or prevention of disease in man or other animals; or

(3) intended to affect the structure or any function of the body of man or other animals and which does not achieve any of its principal intended purpose through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

"Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

"Legend drug" has the meaning set forth in IC 16-18-2-199.

"License" and "permit" are interchangeable and mean a written certificate from the Indiana board of pharmacy for the practice of pharmacy or the operation of a pharmacy.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, or municipality, or a legal representative or agent, unless this chapter expressly provides otherwise.

"Practitioner" means a physician licensed under IC 25-22.5, a veterinarian licensed under IC 15-5-1.1, a dentist licensed under IC 25-14, a podiatrist licensed under IC 25-29, or any other person licensed by law to prescribe and administer legend drugs in this state.

"Pharmacist" means a person licensed under this chapter.

"Pharmacist extern" means a pharmacy student enrolled full-time in an approved school of pharmacy and who is working in a school sponsored, board approved program related to the practice of pharmacy.

"Pharmacist intern" means a person who is working to secure additional hours of practice and experience prior to making application for a license to practice as a pharmacist.

"Pharmacy" means any facility, department, or other place where prescriptions are filled or compounded and are sold, dispensed, offered, or displayed for sale and which has as its principal purpose the dispensing of drug and health supplies intended for the general health, welfare, and safety of the public, without placing any other activity on a more important level than the practice of pharmacy.



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"The practice of pharmacy" or "the practice of the profession of pharmacy" or the practice of the "profession of pharmacy" means a patient oriented health care profession in which pharmacists interact and consult with patients and with other health care professionals concerning drugs and devices used to enhance patients' wellness, prevent illness, and optimize outcomes, by accepting responsibility for performing or supervising the following acts, services, and operations:

- (1) The offering of or performing of those acts, service operations, or transactions incidental to the interpretation, **evaluation, and implementation** of a ~~prescription~~ **prescriptions or drug orders**.
- (2) The compounding, **labeling**, administering, dispensing, or selling of drugs and devices, **including radioactive substances**, whether dispensed ~~on~~ **under a practitioner's prescription or drug order**, or sold or given directly to the ultimate consumer. ~~or~~
- (3) The proper and safe storage and distribution of drugs and devices.
- (4) The maintenance of proper records of **the receipt, storage, sale, and dispensing of** drugs and devices.
- (5) ~~and the responsibility for~~ **Counseling**, advising, and educating patients, patients' caregivers, and health care providers and professionals, as necessary, as to the contents, therapeutic values, ~~hazards~~, **uses, significant problems, risks**, and appropriate manner of use of drugs ~~or~~ and devices.
- (6) **Assessing, recording, and reporting events related to the use of drugs or devices.**
- (7) **Obtaining and maintaining patient profiles, patient drug histories relating to therapy, other pharmacy records, and other patient health records.**
- (8) **Monitoring, recording, and reporting drug therapy and use.**
- (9) **Performing drug evaluation, drug utilization review, and drug regimen review.**
- (10) **Participation in the selection, storage, and distribution of drugs, dietary supplements, and devices.**
- (11) **Participation in drug or drug related research.**
- (12) **Provision of the professional acts, professional decisions, and professional services necessary to maintain all areas of a patient's pharmacy related care as specifically authorized under this article.**

"Prescription" means a written order ~~or an order transmitted by other means of communication from a practitioner~~ to or for an



ultimate user for any drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner issued and signed by a practitioner. ~~or an order transmitted by other means of communication from a practitioner and which is immediately reduced to writing by the pharmacist.~~

"Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records, or other written indicia, documents or objects which are used in any way in connection with the purchase, sale, or handling of any drug or device.

"Sale" means every sale and includes:

- (1) manufacturing, processing, transporting, handling, packaging, or any other production, preparation, or repackaging;
- (2) exposure, offer, or any other proffer;
- (3) holding, storing, or any other possession;
- (4) dispensing, giving, delivering, or any other supplying; and
- (5) applying, administering, or any other using.

SECTION 2. IC 27-8-27.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 27.6. Insurer Designation of Mail Order and Internet Pharmacies

Sec. 1. (a) This chapter applies to every:

- (1) policy of accident and sickness insurance (as defined in IC 27-8-5-1), whether written on an individual basis, a group basis, a franchise basis, or a blanket basis;
- (2) group contract (as defined in IC 27-13-1-16) or individual contract (as defined in IC 27-13-1-21) through which a health maintenance organization furnishes health care services;
- (3) health care plan of a state or local governmental entity that provides coverage for health care services on a self-insurance basis; and
- (4) employee welfare benefit plan (as defined in 29 U.S.C. 1002) that is self-funded;

that is issued, delivered, executed, or renewed in Indiana on or after July 1, 2000.

(b) This chapter does not apply to a policy or contract with a federal governmental entity to insure or administer the Medicare+Choice plan or a plan that covers military or civilian federal employees and their dependents.



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1 **Sec. 2.** As used in this chapter, "insurer" means a company, a
 2 firm, a partnership, an entity, an association, an order, a society,
 3 or a system:

- 4 (1) making any of the kinds of insurance;
 5 (2) entering into any of the kinds of contracts; or
 6 (3) providing any of the coverage;
 7 described in section 1 of this chapter.

8 **Sec. 3.** As used in this chapter, "insured" means an individual
 9 who is entitled to coverage under any policy, contract, or plan
 10 described in section 1 of this chapter.

11 **Sec. 4.** As used in this chapter, "mail order or Internet based
 12 pharmacy" means a pharmacy that is located in Indiana or is a
 13 nonresident pharmacy (as defined in IC 25-26-17-2) that dispenses
 14 prescription drugs:

- 15 (1) through the United States Postal Service or other delivery
 16 services; or
 17 (2) after receiving a request for prescription drugs through
 18 the Internet;
 19 to patients in Indiana.

20 **Sec. 5. (a)** An insurer that provides coverage for prescription
 21 drugs may designate a mail order or Internet based pharmacy to
 22 provide prescription drugs to an insured.

23 **(b)** An insurer may not:

- 24 (1) require an insured to obtain prescription drugs from a
 25 pharmacy designated under subsection (a) as a condition of
 26 coverage; or
 27 (2) impose an additional fee or other financial penalty upon an
 28 insured if the insured obtains prescription drugs from an
 29 in-network pharmacy not designated in subsection (a) that
 30 agrees to provide all pharmaceutical services under the terms
 31 and conditions that apply to a pharmacy designated in
 32 subsection (a).

33 **Sec. 6.** A mail order or Internet based pharmacy shall comply
 34 with the following:

- 35 (1) The licensure laws of the state in which the mail order or
 36 Internet based pharmacy is domiciled.
 37 (2) The generic drug laws of Indiana under IC 16-42-22.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 153, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning pharmacies.

Page 2, between lines 11 and 12, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "mail order or Internet based pharmacy" means a pharmacy that is located in Indiana or is a nonresident pharmacy (as defined in IC 25-26-17-2) that dispenses prescription drugs:

(1) through the United States Postal Service or other delivery services; or

(2) after receiving a request for prescription drugs through the Internet;

to patients in Indiana."

Page 2, line 12, delete "4" and insert "5".

Page 2, line 13, delete ":" and insert **"a mail order or Internet based pharmacy"**.

Page 2, delete lines 14 through 19.

Page 2, run in lines 13 through 20.

Page 2, after line 30, begin a new paragraph and insert:

"Sec. 6. A mail order or Internet based pharmacy shall comply with the following:

(1) The licensure laws of the state in which the mail order or Internet based pharmacy is domiciled.

(2) The generic drug laws of Indiana under IC 16-42-22."

and when so amended that said bill do pass.

(Reference is to SB 153 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 2.

ES 153—LS 6655/DI 97+



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 153, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 25-26-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this chapter:

"Board" means the Indiana board of pharmacy.

"Controlled drugs" are those drugs on schedules I through V of the Federal Controlled Substances Act or on schedules I through V of IC 35-48-2.

"Counseling" means effective communication between a pharmacist and a patient concerning the contents, drug to drug interactions, route, dosage, form, directions for use, precautions, and effective use of a drug or device to improve the therapeutic outcome of the patient through the effective use of the drug or device.

"Dispensing" means issuing one (1) or more doses of a drug in a suitable container with appropriate labeling for subsequent administration to or use by a patient.

"Drug" means:

- (1) articles or substances recognized in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them;
- (2) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;
- (3) articles other than food intended to affect the structure or any function of the body of man or animals; or
- (4) articles intended for use as a component of any article specified in subdivisions (1) through (3) and devices.

"Drug order" means a written order in a hospital or other health care institution for an ultimate user for any drug or device, issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, which is immediately reduced to writing by the pharmacist, registered nurse, or other licensed health care practitioner authorized by the hospital or institution. The order shall contain the name and bed number of the patient; the name and strength or size of the drug or device; unless specified by individual

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institution policy or guideline, the amount to be dispensed either in quantity or days; adequate directions for the proper use of the drug or device when it is administered to the patient; and the name of the prescriber.

"Drug regimen review" means the retrospective, concurrent, and prospective review by a pharmacist of a patient's drug related history that includes the following areas:

- (1) Evaluation of prescriptions or drug orders and patient records for drug allergies, rational therapy contradictions, appropriate dose and route of administration, appropriate directions for use, or duplicative therapies.**
- (2) Evaluation of prescriptions or drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions.**
- (3) Evaluation of prescriptions or drug orders and patient records for adverse drug reactions.**
- (4) Evaluation of prescriptions or drug orders and patient records for proper utilization and optimal therapeutic outcomes.**

"Drug utilization review" means a program designed to measure and assess on a retrospective and prospective basis the proper use of drugs.

"Device" means an instrument, apparatus, implement, machine, contrivance, implant, invitro reagent, or other similar or related article including any component part or accessory, which is:

- (1) recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to them;**
- (2) intended for use in the diagnosis of disease or other conditions or the cure, mitigation, treatment, or prevention of disease in man or other animals; or**
- (3) intended to affect the structure or any function of the body of man or other animals and which does not achieve any of its principal intended purpose through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.**

"Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

"Legend drug" has the meaning set forth in IC 16-18-2-199.

"License" and "permit" are interchangeable and mean a written certificate from the Indiana board of pharmacy for the practice of

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pharmacy or the operation of a pharmacy.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, or municipality, or a legal representative or agent, unless this chapter expressly provides otherwise.

"Practitioner" means a physician licensed under IC 25-22.5, a veterinarian licensed under IC 15-5-1.1, a dentist licensed under IC 25-14, a podiatrist licensed under IC 25-29, or any other person licensed by law to prescribe and administer legend drugs in this state.

"Pharmacist" means a person licensed under this chapter.

"Pharmacist extern" means a pharmacy student enrolled full-time in an approved school of pharmacy and who is working in a school sponsored, board approved program related to the practice of pharmacy.

"Pharmacist intern" means a person who is working to secure additional hours of practice and experience prior to making application for a license to practice as a pharmacist.

"Pharmacy" means any facility, department, or other place where prescriptions are filled or compounded and are sold, dispensed, offered, or displayed for sale and which has as its principal purpose the dispensing of drug and health supplies intended for the general health, welfare, and safety of the public, without placing any other activity on a more important level than the practice of pharmacy.

"The practice of pharmacy" or "the practice of the profession of pharmacy" **or the practice of the "profession of pharmacy" means a patient oriented health care profession in which pharmacists interact and consult with patients and with other health care professionals concerning drugs and devices used to enhance patients' wellness, prevent illness, and optimize outcomes, by accepting responsibility for performing or supervising the following acts, services, and operations:**

- (1) The offering **of** or performing of those acts, service operations, or transactions incidental to the interpretation, **evaluation, and implementation of a prescription prescriptions or drug orders.**
- (2) The compounding, **labeling**, administering, dispensing, or selling of drugs and devices, **including radioactive substances**, whether dispensed ~~on~~ **under a practitioner's prescription or drug order**, or sold or given directly to the ultimate consumer. ~~or~~
- (3) The proper and safe storage and distribution of drugs and devices.
- (4) The maintenance of proper records of **the receipt, storage, sale, and dispensing of** drugs and devices.



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(5) and the responsibility for **Counseling**, advising, and educating patients, patients' caregivers, and health care providers and professionals, as necessary, as to the contents, therapeutic values, hazards, uses, significant problems, risks, and appropriate manner of use of drugs or devices.

(6) **Assessing, recording, and reporting events related to the use of drugs or devices.**

(7) **Obtaining and maintaining patient profiles, patient drug histories relating to therapy, other pharmacy records, and other patient health records.**

(8) **Monitoring, recording, and reporting drug therapy and use.**

(9) **Performing drug evaluation, drug utilization review, and drug regimen review.**

(10) **Participation in the selection, storage, and distribution of drugs, dietary supplements, and devices.**

(11) **Participation in drug or drug related research.**

(12) **Provision of the professional acts, professional decisions, and professional services necessary to maintain all areas of a patient's pharmacy related care as specifically authorized under this article.**

"Prescription" means a written order **or an order transmitted by other means of communication from a practitioner** to or for an ultimate user for any drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner issued and signed by a practitioner. ~~or an order transmitted by other means of communication from a practitioner and which is immediately reduced to writing by the pharmacist.~~

"Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records, or other written indicia, documents or objects which are used in any way in connection with the purchase, sale, or handling of any drug or device.

"Sale" means every sale and includes:

- (1) manufacturing, processing, transporting, handling, packaging, or any other production, preparation, or repackaging;
- (2) exposure, offer, or any other proffer;
- (3) holding, storing, or any other possession;
- (4) dispensing, giving, delivering, or any other supplying; and
- (5) applying, administering, or any other using."



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Page 1, line 1, delete "27-8-27" and insert "27-8-27.6".

Page 1, line 3, begin a new paragraph beginning with "Chapter".

Page 1, line 3, delete "27." and insert "**27.6.**".

Page 1, line 5, after "1." insert "**(a)**".

Page 2, line 1, delete "1999" and insert "**2000**".

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"(b) This chapter does not apply to a policy or contract with a federal governmental entity to insure or administer the Medicare+Choice plan or a plan that covers military or civilian federal employees and their dependents."

Page 2, line 29 delete "a" and insert "**an in-network**".

Page 2, line 31, after "provide" insert "**all**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 153 as printed February 26, 1999.)

BROWN C, Chair

Committee Vote: yeas 13, nays 0.

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